

REMARKS

This Amendment and Reply is intended to be completely responsive to the Non-Final Office Action dated May 18, 2007. Applicants respectfully request reconsideration of the present Application in view of the foregoing amendments and the following remarks. Claims 1-41 have been rejected. Claims 1, 24, 30, 31, 32 and 35 have been amended. No new matter has been added. Accordingly, Claims 1-41 will remain pending in the present Application upon entry of this Amendment and Reply.

A detailed listing of all claims that are, or were, in the application, irrespective of whether the claim(s) remain under examination in the application, is presented, with an appropriate defined status identifier.

Claim Rejections – 35 U.S.C. § 112

On page 2 of the Office Action, the Examiner rejected Claims 1-23 under 35 U.S.C. § 112, ¶ 1 for failing to comply with the written description requirement. The Examiner alleged that “the claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.” Specifically, the Examiner noted that “the claims contain the subject matter ‘the collar formed of a second material . . . the second material being substantially rigid relative to the first material’ and asserted that such subject matter “is not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.”

Applicants respectfully disagree with the Examiner. Applicants believe that one skilled in the relevant art, after reviewing the present Application, (as originally filed) would understand the collar (with its connector configuration) to be formed of a material that is a harder material relative to the flexible sheet material that is used for the body of the container. Regardless, this rejection is now moot. In an effort to further advance the prosecution of the present Application,

Applicants have amended Claim 1 to remove the subject matter that the collar is formed of a material that is relatively harder than the material used to form the body of the container from the claim.

Accordingly, Applicants respectfully request withdrawal of the rejection of Claims 1-23 under 35 U.S.C. § 112, ¶ 1.

Claim Rejections – 35 U.S.C. § 103

On pages 3-7 of the Office Action, the Examiner rejected Claims 1-12 and 18-41 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,366,104 to Armstrong (“Armstrong”) in view of U.S. Patent Publication No. 2002/0148846 to Luburic (“Luburic”) and U.S. Patent No. 4,848,575 to Nakamura et al. (“Nakamura et al.”). On page 7 of the Office Action, the Examiner rejected Claims 13-17 under 35 U.S.C. § 103(a) as being unpatentable over Armstrong, Luburic and Nakamura et al. in further view of U.S. Patent No. 5,699,912 to Ishikawa et al. (“Ishikawa et al.”). These rejections should be withdrawn because the cited references fail to disclose, teach or suggest the claimed inventions.

For example, Armstrong alone or in any proper combination with Luburic, Nakamura et al. and/or Ishikawa et al. fails to disclose, teach or suggest a “hermetic storage system for containing wipes” comprising, in combination with other elements, a “container configured for holding the wipes, the container formed of a first material . . . the first material being formed of a flexible film material that is conformable to the wipes contained therein” and a “separate collar coupled to the open first end of the container, the collar formed of a second material,” (emphasis added) as now recited in independent Claim 1 (as amended).

Armstrong alone or in any proper combination with Luburic, Nakamura et al. and/or Ishikawa et al. also fails to disclose, teach or suggest a “hermetic storage system for containing wipes” comprising, in combination with other elements, a “container configured for holding the wipes, the container formed of a flexible film material . . . the flexible film material being

conformable to the wipes contained in the container and a “separate collar coupled to the [container]” (emphasis added) as now recited in independent Claims 24, 30, 31 (as amended).

Armstrong alone or in any proper combination with Luburic, Nakamura et al. and/or Ishikawa et al. further fails to disclose, teach or suggest a “hermetic storage system for containing wipes” comprising, in combination with other elements, “flexible containing means including a receptacle formed of a flexible film material that is conformable to the wipes contained therein . . . the flexible containing means further includes a separate collar coupled to a first end of the receptacle” (emphasis added) as now recited in independent Claim 32 (as amended).

Armstrong alone or in any proper combination with Luburic, Nakamura et al. and/or Ishikawa et al. further fails to disclose, teach or suggest a “method for making a hermetic storage system for containing wipes” comprising, in combination with other steps, “providing a container configured for holding at least one wipe, the container formed of a flexible film material . . . the flexible film material being conformable to the wipes contained within the container” and “providing a collar formed independent of the container as a separate member” (emphasis added) as now recited in independent Claim 35 (as amended).

In rejecting Claims 1, 24, 30, 31, 32 and 35, the Examiner stated:

Armstrong ‘104 discloses a hermetic storage system for containing wipes comprising: a flexible container (11) having a collar (flange 21 which extends outwardly away from outboard edge and has a generally upwardly facing surface 22 edge) having a first connector (rolled over section 19) surrounding an aperture; and an impermeable cover member (12) having a second connector (27); wherein the first connector includes one of a groove and a key and the second connector includes the other one of the groove and the key; wherein the groove includes a first peripheral wall and a second peripheral wall, at least one of the first peripheral wall and the second peripheral wall being flexible and wherein the first peripheral wall includes an indentation and protrusion (see Figures 7-9 embodiments); and wherein the first connector and the second connector may be releasably engaged to provide a hermetic seal.

The Examiner acknowledged that Armstrong does not teach:

the key to have a width greater than the distance between the protrusion and the second peripheral wall of the groove and at least one of the first peripheral wall and the second peripheral wall configured to flex in response to the key passing between the protrusion and the second peripheral wall.

The Examiner then cited to Luburic and stated:

Luburic discloses a hermetic storage system where the key has a width greater than the distance between the protrusion and the second peripheral wall of the groove and at least one of the first peripheral wall and the second peripheral wall configured to flex in response to the key passing between the protrusion and the second peripheral wall for easier and tighter snapping action to provide a tighter hermetic seal.

The Examiner concluded:

It would have been obvious to one of ordinary skill in the art at the time of the invention was made to provide a key and groove arrangement with the key having a width greater than the distance between the protrusion and at least one of the first peripheral wall and the second peripheral wall configured to flex in response to the key passing between the protrusion to the container of Armstrong '104 as taught by Luburic to provide a better and tighter hermetic seal when the lid is closed on the body of the container.

The Examiner further cited to Nakamura et al. and stated:

Nakamura '575 discloses a resealable dispenser-container for wet tissues comprising a container, made of a flexible and impervious film sheet, and a tray/collar member, made of a material harder than said container

The Examiner concluded:

It would have been obvious to one of ordinary skill in the art at the time the invention was made to make the container of Armstrong '104 from flexible film material and the collar from more rigid materials as taught by Nakamura '575, since it has been held to be within the general skill of a worker in the art to select a known

material on the basis of its suitability for the intended use as a matter of obvious design choice.

Applicants respectfully disagree that it would have been obvious to one of ordinary skill in the art at the time the invention was made to make the container of Armstrong from a flexible film material and the collar from more rigid materials as taught by Nakamura et al., as suggested by the Examiner. To establish a prima facie case of obviousness based on a combination of prior art references under 35 U.S.C. § 103(a), the Examiner must first show that there is a suggestion or motivation to combine the teachings of those references. When the motivation to combine the teachings of the references is not immediately apparent, it is the duty of the Examiner to explain why the combination of teachings is proper. Ex parte Skinner, 2 U.S.P.Q.2d 1788 (Bd. Pat. App. & Inter. 1986). In this case, the Examiner has not shown – and indeed, cannot show – that there would have been any motivation or suggestion to one of skill in the art to combine the teachings of Armstrong with those of Nakamura et al.

There is no motivation, teaching, or suggestion to combine the subject matter of Armstrong and Nakamura et al. to provide the systems and method recited in Claims 1, 24, 30, 31, 32 and 35 because: (1) the combination of Armstrong and Nakamura et al. asserted by the Examiner would render the container of Armstrong unsuitable for its intended purpose, (2) the Examiner has failed to provide particular findings regarding why one of skill in the art would be motivated to provide Armstrong with a container body that is flexible (e.g., conformable, deformable, etc.) when neither Armstrong nor Nakamura et al. disclose this motivation and (3) Armstrong teaches away from being combined with Nakamura et al. in the manner asserted by the Examiner. Each of these reasons is explained in greater detail below. First, however, an explanation of the subject matter shown in Armstrong and Nakamura et al. is provided as an aid for the following discussion.

Armstrong is directed to a “Container with Hinged Lid” and discloses a “container 10 including a base 11 and an openable and closeable lid 12 hingeably mounted on the base 11” (col. 2, lines 52-54). Both the base and the lid “are made of a moldable synthetic resin and have a uniform wall thickness throughout” (col. 1, lines 45-47). The base 10 includes a “bottom wall

13 and a plurality of upstanding sidewalls 14 and a rear sidewall 14A connected to the bottom wall 13” (col. 2, lines 54-56). The sidewalls 14 and 14A include a configuration intended to “prevent a stacked array of base members 11 from becoming compressed together when stacked” (col. 3, lines 9-13).

Nakamura et al. is directed to a “Resealable Dispenser-Container for Wet Wipes” and discloses a “container 1” that is formed of a “flexible sheet” that defines a “dispensing opening 12” (col. 6, lines 19-54). Attached to a top surface of the “container 1” for covering the “dispensing opening 12” is a releasable and pressure sensitive “flap 14” (col. 10, lines 11-15). The “flap 14” is made of material similar to the flexible sheet material used to form the “container 1” (col. 6, lines 40-44). Contained within the “container 1 and located between the wet tissues and the top surface of the container 1” is a “tray member 2” that is “made of a material harder than that of container 1” (col. 5, lines 60-64 and col. 7, lines 19-28). The “tray member 2 is fixed to the sheet at a side opposite to that having [flap 14]” (col. 10, lines 20-23).

There is no motivation to combine Armstrong with Nakamura et al. in the manner asserted by the Examiner because such a combination would render the container in Armstrong unsuitable for its intended purpose. Modifying the “base member 11” in Armstrong so that it is formed of the flexible sheet material disclosed in Nakamura et al., rather than the relatively rigid molded resin material that is disclosed, as asserted by the Examiner, would render the system in Armstrong unsuitable for achieving its desired stacking function. Armstrong describes and shows a container having a base member that is configured to resist deformation when an array of base members are stacked (Armstrong, col. 3, lines 9-13). Thus, the “base member 11” in Armstrong is intended to be stacked. If the “base member 11” in Armstrong was modified to be formed of the same or similar body member material as that disclosed in Nakamura et al., the “base member 11” of the container would compress when another base member was placed on top of it. Such a result would be in direct opposition to one of the key features in Armstrong (i.e., the ability to prevent a stacked array of base members from becoming compressed together when stacked). One of ordinary skill in the art at the time the invention was made would not have been motivated to make such a combination. Further, the Examiner has not provided any

indication (nor do either Armstrong or Nakamura et al. teach or suggest) how the teachings of Armstrong would have to be modified to include the teachings of Nakamura but yet still achieve the function and design that is desired by Armstrong. Further still, Armstrong teaches away from combining it with Nakamura et al. since Armstrong discloses that both the base and the lid “are made of a moldable synthetic resin and have a uniform wall thickness throughout” and such a base has a configuration that prevents a stacked array of base members from becoming compressed together when stacked.

However, even if the combination of Armstrong, Luburic, Nakamura et al. and/or Ishikawa et al. was proper, such a combination still does not disclose, teach or suggest the claimed inventions. The Examiner has cited to no teaching in the prior art of a hermetic storage system that includes a container formed of a flexible film that is conformable to products contained therein in combination with the claimed hermetic sealing configuration (i.e., one of a groove and a key on a collar (coupled to the flexible film) and the other of the groove and the key on a cover (coupled to the collar)). The use of a collar member formed separately from the flexible film material (and the subsequent coupling thereto) advantageously allows a flexible container body to be used with the improved hermetic sealing configuration that is disclosed. If the collar and the container body portion were integrally formed, the container could not realize the benefits of a flexible container while still achieving the desired hermetic seal. The Examiner’s failure to provide a citation to the art of record is not surprising because the only evidence in the record of a teaching of such features is contained in the present Application. Of course, any reliance on present Application would constitute impermissible hindsight reasoning.

Also, it should be noted that Applicants disagree with the Examiner’s assertion that providing a hermetic storage system with a container portion that is formed of a flexible film material that is conformable to products contained therein rather than a rigid structure (e.g., a molded resin, etc.) is simply a matter of interchanging known materials. As noted above with reference to Armstrong, interchanging such materials would render the container unsuitable for its intended purpose. Therefore, the difference between a relatively rigid container body and the

container body disclosed in the present Application cannot be considered simply a matter of interchanging known materials. Further, Applicants continue to disagree with the Examiner's assertion that providing a separate collar, in combination with a container formed of a flexible film material, is simply constructing a formerly integral structure in various elements. The record does not support such an argument since the cited references do not disclose, teach or suggest a container formed of a "flexible" material, as expressly defined in the present Application, in combination with a collar, either integrally or as a separate member, that includes one of a key and a groove configured to cooperated with the other of the key and the groove provided on a cover.

Accordingly, Applicants respectfully request withdrawal of the rejection of Claims 1, 24, 30, 31, 32 and 35 under 35 U.S.C. § 103(a) since at least one element of such claims is not disclosed, taught or suggested by the combination of Armstrong, Luburic, Nakamura et al. and/or Ishikawa et al. Claims 2-23, 25-29, 33, 34 and 36-41 depend variously from Claims 1, 24 , 30, 31, 32 and 35 and are allowable therewith, for at least the reasons set forth above, without regard to further patentable limitations set forth in such claims. Reconsideration and withdrawal of the rejection of Claims 2-23, 25-29, 33, 34 and 36-41 is respectfully requested.

* * *

Applicants respectfully submit that each and every pending rejection has been overcome, and that the present Application is in a condition for allowance. In particular, even when the elements of Applicants' claims, as discussed above, are given a broad construction and interpreted to cover equivalents, the cited references do not teach, disclose, or suggest the claimed subject matter. Favorable reconsideration of the Application is respectfully requested.

Further, Applicants respectfully put the Patent Office and all others on notice that all arguments, representations, and/or amendments contained herein are only applicable to the present Application and should not be considered when evaluating any other patent or patent application including any patents or patent applications which claim priority to this patent

application and/or any patents or patent applications to which priority is claimed by this patent application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by the credit card payment instructions in EFS-Web being incorrect or absent, resulting in a rejected or incorrect credit card transaction, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741.

If any extensions of time are needed for timely acceptance of papers submitted herewith, the Applicants hereby petition for such extension under 37 C.F.R. § 1.136 and authorize payment of any such extensions fees to Deposit Account No. 19-0741.

The Examiner is encouraged to contact the undersigned by telephone if the Examiner believes that another telephone interview would advance the prosecution of the present Application. Please direct all correspondence to the undersigned attorney or agent at the address indicated below.

Respectfully submitted,

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